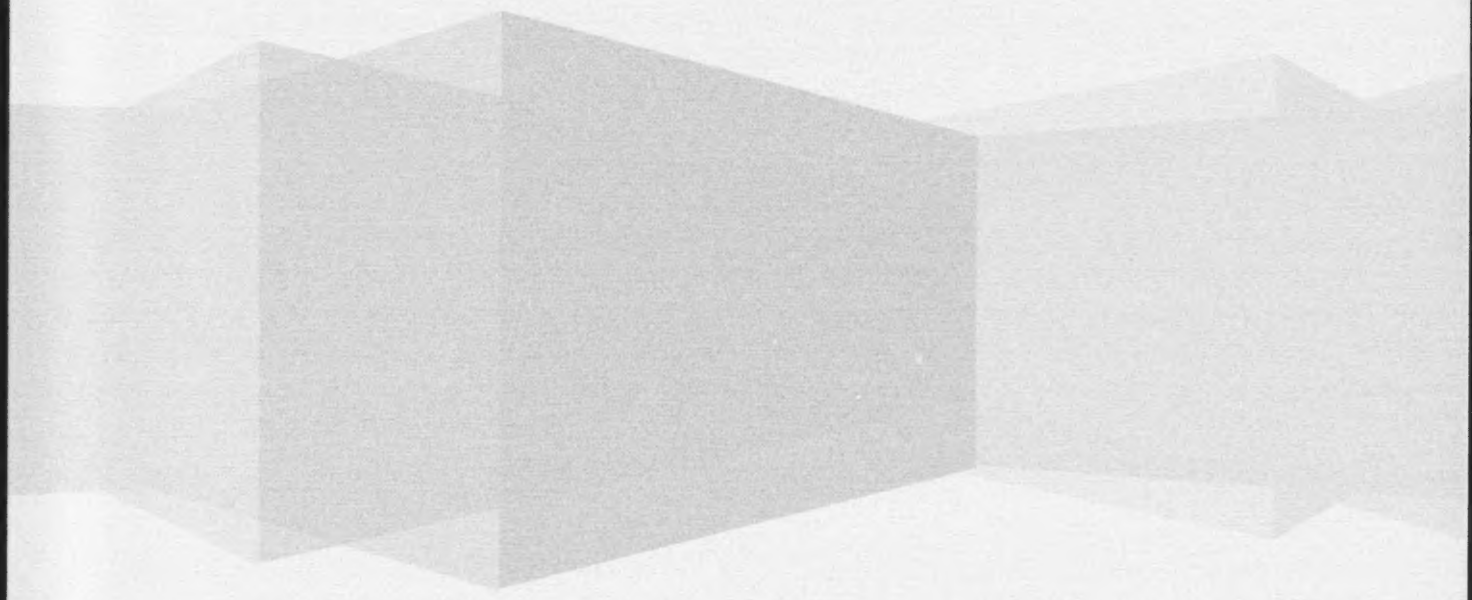
BRITISH COLUMBIA

Financial Services Tribunal
2013-2014 Annual Report



BRITISH COLUMBIA

Financial Services Tribunal

April 25, 2014

The Honourable Michael de Jong, Q.C.
Minister of Finance
Room 153, Parliament Buildings
Victoria BC V8V 1X4

Dear Minister de Jong:

Re: Financial Services Tribunal 2013-2014 Annual Report

I am pleased to submit to you the Annual Report of the Financial Services Tribunal ("FST") for the fiscal year beginning April 1, 2013 and ending March 31, 2014. This report is submitted pursuant to section 242.1 (5) (d) of the *Financial Institutions Act*.

Sincerely,

M. Mourton

Maurice R. Mourton
Chair
Financial Services Tribunal

Enclosure

Message from the Chair

Again this year the volume of cases for decision by our Tribunal was small. Nevertheless we continue to provide an important outlet for individuals that are unhappy with decisions made by the bodies for which we have an oversight responsibility. It is important that an independent avenue of appeal to the Financial Services Tribunal be available for potential redress of concerns with regulatory decisions, even where the occasions that affected parties avail themselves of the opportunity are few.

The Tribunal is fully appointed with three qualified members and is capable of a timely and efficient level of response to appeals filed.

I would be pleased to answer any questions the reader of this report may have.

M. Mourton

Maurice R. Mourton
Chair

Mandate

The Financial Services Tribunal (FST) hears appeals from institutions and individuals who want to contest enforcement decisions made by the:

- Insurance Council of British Columbia;
- Real Estate Council of British Columbia;
- Superintendent of Real Estate;
- Superintendent of Pensions;
- Registrar of Mortgage Brokers; and,
- Superintendent of Financial Institutions.

The FST has jurisdiction to hear appeals under the following British Columbia statutes:

- *Financial Institutions Act;*
- *Credit Union Incorporation Act;*
- *Mortgage Brokers Act;*
- *Pension Benefits Standards Act;*
- *Real Estate Services Act; and,*
- *Real Estate Development Marketing Act.*

Tribunal Membership

At the start of this reporting period the FST board membership consisted of:

TRIBUNAL MEMBER	ROLE	TERM EXPIRY
Maurice M. Mourton	Chair	November 23, 2016
Paula Barnsley	Member	November 23, 2014
Patrick Lewis	Member	May 2, 2014

BIOGRAPHIES FOR THE TRIBUNAL MEMBERSHIP AT THE END OF THE REPORTING PERIOD ARE AS FOLLOWS:

MAURICE M. MOURTON, CHAIR

Mr. Mourton has over 45 years experience in the banking industry and held a variety of senior executive positions. He was head of Human Resources for the Bank of Montreal and subsequently held senior positions in Quebec, Ontario, the U.K., and British Columbia. Joining the HSBC Group in 1986, he served in a variety of senior executive positions including being a member of the Executive Committee. He retired from the HSBC Group in 2000 as Executive Director Brazil. From 2004 to 2007 he served as Chair of the Ubiquity Bank of Canada.

Always active in the community, Mr. Mourton has served on numerous boards. He has chaired the Children's Miracle Network Telethon, the Children and Women's Health Center of BC, the Canadian International Dragon Boat Festival, the Canadian Bankers Association of BC, the Canadian Genetic Diseases Network (a National Center of Excellence), the Arthritis Society of BC, the BC Transplant Society and the Child and Family Research Institute. In addition he has been a director of the International Finance Center, Endeavor, the Vancouver Opera, the BC Children's Hospital Foundation, the Vancouver Foundation, the College of Physicians and Surgeons of BC and Community Living B.C. Currently he is a director of the Northern Trust Company, and a member of the Health Professions Review Board. He is a Governor of B.C. Children's Hospital Foundation.

PAULA E. BARNSLEY, MEMBER

Paula Barnsley retired from full time private practice of law in July 2006 and continued her association with Cundari Seibel Law Corporation in Kamloops on a part time basis until retiring to Vancouver Island in 2011. She has been a part time member of various adjudicative tribunals since moving to Kamloops in 1998 and maintains a keen interest in administrative law, which started when she clerked for the Supreme Court of Nova Scotia – Trial Division. Ms. Barnsley holds a Bachelor of Laws from Dalhousie University, and a Master of Laws from UBC. Her graduate work focussed on equality in tax policy. She has been called to the Bar in Nova Scotia, New Brunswick and British Columbia. She also holds a Masters of Education (Educational Psychology) from Memorial University in Newfoundland, and worked in private practice as a registered psychologist for 14 years before entering law school in 1988.

BIOGRAPHIES CONTINUED:

PATRICK F. LEWIS, MEMBER

Patrick Lewis is a Partner at the boutique litigation firm, Sugden, McFee & Roos LLP, in Vancouver, practicing exclusively in the area of civil litigation with an emphasis on commercial disputes. He was admitted as a barrister and solicitor to the Bar of the Province of British Columbia on June 14, 1985. The cases Mr. Lewis handles include securities litigation, mining disputes, professional liability claims and defence thereof involving lawyers, doctors, engineers and accountants, corporate litigation, insurance litigation, real property disputes, defamation claims, banking litigation, employment disputes and personal injury actions.

Mr. Lewis has appeared in all levels of courts in British Columbia, the Federal Court of Canada and been involved in opposing applications for leave to appeal to the Supreme Court of Canada in a number of cases. As of August 30, 2010, Mr. Lewis has been a member of the Financial Services Tribunal and in that capacity adjudicates appeals from the decisions of statutory regulatory agencies in British Columbia. Mr. Lewis is a member of the B.C. Branch of the Canadian Bar Association, Civil Litigation Subsection. He is also a member of the Trial Lawyers Association of British Columbia, a guest lecturer for the Continuing Legal Education Society of British Columbia and a Moot Court Judge at the U.B.C. Law School.

Tribunal Member Training

In order to ensure that the FST is able to provide quality adjudicative services, keep up to date with new innovations in administrative justice and optimally fulfill its mandate, the tribunal engaged in a number of professional development activities during the current reporting period.

On January 27, 2014 the FST held a General Meeting of the membership, legal counsel and staff to discuss general tribunal business and consider substantive issues including:

- Administrative Law update and current developments in administrative justice
- FST cases heard by the BC Supreme Court
- Lessons learned and issued raised from recent FST decisions
- Policy discussion on decision publication on the FST website

In addition, the Chair and one member also took advantage of the annual Education Conference provided by the BC Council of Administrative Tribunals in October 2013, which provided workshops on topical administrative law issues such as early dispute resolution, hearing skills development, managing difficult parties, cross-cultural communication, tribunal clustering, and recent developments in administrative law.

Operations

Effective April 1, 2010, the administrative support functions of the FST were moved from the Financial Institutions Commission (FICOM) in Vancouver and consolidated with the Environmental Appeal Board/Forest Appeals Commission Appeals Office (Appeals Office) in Victoria.

In addition to the FST, the Appeals Office provides administrative support to five other adjudicative tribunals. This has been done to assist government in achieving economic and program delivery efficiencies by allowing greater access to resources while, at the same time, reducing administration and operating costs. The additional tribunals include the:

- Community Care and Assisted Living Appeal Board;
- Health Professions Review Board;
- Hospital Appeal Board;
- Industry Training Appeal Board; and,
- Oil and Gas Appeal Tribunal.

This move has resulted in significant savings to government for the operation of the FST through a shared services cluster approach which takes advantage of synergy and assists government in achieving economic and program delivery efficiencies.

This arrangement has been in operation for 4 years now and has proven to be an effective and efficient means for providing administrative support to the tribunal which in turn enables the FST to effectively and efficiently fulfill its mandate to the public.

Contact Information

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Appeal Activity and Decisions Issued

Appeals Filed

2014-FIA-001

There was one new appeal filed with the FST between April 1, 2013 and March 31, 2014, contesting a decision made under the *Financial Institutions Act* in regard to the 18-month suspension of the licence of an insurance broker for inappropriately accessing the ICBC database. Upon filing the appeal a request for a stay was made by the appellant, seeking an order of the FST suspending the operation of the decision under review pending a hearing of the appeal and a final determination in the matter. The stay order was granted on the consent of all the parties and a schedule has been issued by the FST to hear the appeal by way of a written hearing. The written submissions process closes after the end of this reporting period and therefore a decision will be issued during the next reporting period.

Decisions Issued

There were no published decisions of the Tribunal issued during this reporting period.

Matters Outstanding at end of Period

There is one matter outstanding at the end of this reporting period.

Judicial Review of FST Decisions

There were no decisions rendered by the Supreme Court of British Columbia on judicial review of any FST decisions issued in this reporting period; however, one matter is currently outstanding before the Court.

Statement of Financial Performance

(For the fiscal year ended March 31, 2014)

In fiscal year 2013/2014, the FST received $850 in recoveries from appeal filing fees and incurred expenses of $14,511 as detailed below in this five year chart. Although there was only one new appeal filed during this reporting period, the FST also provided written submissions, via legal counsel, in regard to a matter currently under Judicial Review by the Supreme Court of BC.

Operating Result	***2009/2010*** ***$***	***2010/2011*** ***$***	***2011/2012*** ***$***	***2012/2013*** ***$***	***2013/2014*** ***$***
Recoveries	0	1,700	850	2,550	850
Expenses	(58,698)	(29,371)	(71,202)	(23,826)	(14,511)
Net	(58,698)	(27,671)	(70,352)	(21,276)	(13,661)
Direct Expenses	***2009/2010*** ***$***	***2010/2011*** ***$***	***2011/2012*** ***$***	***2012/2013*** ***$***	***2013/2014*** ***$***
Salaries and Benefits	(421)	0	0	0	0
Professional Services	1,240	11,130	61,722	6,690	8,470
Board Fees & Expenses	19,025	18,241	9,300	16,607	5,839
Other	283	0	180	529	202
Total direct Expenses	20,127	29,371	71,202	23,826	14,511
Allocated Overhead -FICOM	38,571	n/a	n/a	n/a	n/a
Total FST Expenses	**$ 58,698**	**$ 29,371**	**$71,202**	**$23,826**	**$14,511**